

Ryan, Robin

From: Miller Robert D. [RMiller2@uwhealth.org]
Sent: Wednesday, April 25, 2007 4:55 PM
To: Ryan, Robin
Cc: Maroney Lisa A.
Subject: RE: Anatomical Gifts bill

All of 157.06(5) should be retained.

Robert D. Miller
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-----Original Message-----

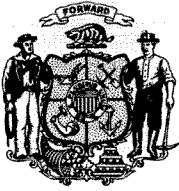
From: Ryan, Robin [mailto:Robin.Ryan@legis.wisconsin.gov]
Sent: Thursday, April 05, 2007 4:33 PM
To: Miller Robert D.
Subject: Anatomical Gifts bill

Bob,

What portions of s. 157.06 (5) do you want to keep regarding mandatory request?

Thanks,
Robin Ryan
Legislative Reference Bureau

04/26/2007



State of Wisconsin
2007 - 2008 LEGISLATURE

LRB-1835/2

RLR:.....

FRI

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

SA 12/12/07
X-1/12/07

Gen cat

granting rule-making authority

and ~~creating~~ a penalty providing

1 AN ACT ...; relating to: anatomical gifts.

Analysis by the Legislative Reference Bureau

This is a preliminary draft. An analysis will be provided in a later version.

CRIME tag

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

2 SECTION 1. 71.05 (10) (i) 1. of the statutes is amended to read:
3 71.05 (10) (i) 1. Subject to the conditions in this paragraph, an individual may
4 subtract up to \$10,000 from federal adjusted gross income if he or she, or his or her
5 dependent who is claimed under section 151 (c) of the Internal Revenue Code, while
6 living, donates one or more of his or her human organs all or part of his or her liver,
7 pancreas, kidney, intestine, lung, or bone marrow to another human being for human
8 organ transplantation, as defined in s. 146.345 (1), ~~except that in this paragraph,~~
9 "human organ" means all or part of a liver, pancreas, kidney, intestine, lung, or bone

(b)
1 marrow. A subtract modification that is claimed under this paragraph may be
2 claimed in the taxable year in which the ~~human organ~~ transplantation occurs.

History: 1987 a. 312; 1987 a. 411 ss. 42, 43, 45, 47 to 49, 51 to 53; 1989 a. 31, 46; 1991 a. 2, 37, 39, 269; 1993 a. 16, 112, 204, 263, 437; 1995 a. 27, 56, 209, 227, 261, 371, 403, 453; 1997 a. 27, 35, 39, 237; 1999 a. 9, 32, 44, 54, 65, 167; 2001 a. 16, 104, 105, 109; 2003 a. 85, 99, 119, 135, 183, 255, 289, 321, 326; 2005 a. 22, 25, 216, 254, 335, 361, 479, 483; s. 13.93 (2) (c).

****NOTE: Do you want to give "tissue" in s. 146.31 the the same meaning it has in s. 157.06? Section 146.31 concerns blood banks and immunity for involvement in transplantations.

3 SECTION 2. 146.345 (title), (1) (a), (b) and (c) and (2) of the statutes are amended
4 to read:

5 **146.345 (title) Sale of human organs parts prohibited.**

History: 1987 a. 97; 1997 a. 283; 2001 a. 109.

6 (1) (a) ~~"Human organ" means a human kidney, liver, heart, lung, pancreas,~~
7 ~~bone marrow, cornea, eye, bone or skin or any other human organ specified by the~~
8 ~~department by rule. "Human organ" part has the meaning given for "part" in s.~~
9 (1) 157.06 (n), except that "human part" does not mean human whole blood, blood plasma,
10 a blood product or a blood derivative or human semen.

History: 1987 a. 97; 1997 a. 283; 2001 a. 109.

11 (b) ~~"Human organ transplantation"~~ "Transplantation" means the medical
12 procedure by which transfer of a human organ part is made from the body of a person
13 to the body of another person.

History: 1987 a. 97; 1997 a. 283; 2001 a. 109.

14 (c) "Valuable consideration" does not include reasonable payment associated
15 with the removal, transportation, implantation, processing, preservation, quality
16 control ~~or~~ storage or disposal of a human organ part or an expense of travel, housing
17 or lost wages incurred by a human organ part donor in connection with donation of
18 the human organ part.

History: 1987 a. 97; 1997 a. 283; 2001 a. 109.

19 (2) No person may knowingly and for valuable consideration acquire, receive
20 or otherwise transfer any human organ part for use in ~~human organ~~ transplantation.

History: 1987 a. 97; 1997 a. 283; 2001 a. 109.

21 SECTION 3. 146.82 (2) (a) 19. of the statutes is amended to read:

1 146.82 (2) (a) 19. To ~~an organ~~ a procurement organization by a hospital
 2 pursuant to s. 157.06 (5) (b) 1, as defined in s. 157.06 (1) (p), for the purpose of
 3 conducting an examination to ensure the medical suitability of an anatomical gift.

History: 1979 c. 221; 1983 a. 398; 1985 a. 29, 241, 332, 340; 1987 a. 40, 70, 127, 215, 233, 380, 399; 1989 a. 31, 102, 334, 336; 1991 a. 39; 1993 a. 16, 27, 445, 479; 1995 a. 98, 169, 417; 1997 a. 35, 114, 231, 272, 292, 305; 1999 a. 32, 78, 83, 114, 151; 2001 a. 38, 59, 69, 105; 2003 a. 281; 2005 a. 187, 344, 387, 388, 434.

4 SECTION 4. 155.20 (8) of the statutes is amended to read:

5 155.20 (8) A health care agent may make an anatomical gift as authorized
 6 under s. 157.06 (3) (a) 7. (8) (a) 1. of all or a part of the principal's body after the
 7 principal's death unless the principal made an unrevoked refusal to make that
 8 anatomical gift.

History: 1989 a. 200; 1991 a. 84, 269, 281; 1995 a. 200; 1997 a. 206.

9 SECTION 5. 155.30 (1) of the statutes is amended to read:

10 (1) ^(form) A printed form of a power of attorney for health care instrument that
 11 is sold or otherwise distributed for use by an individual in this state who does not
 12 have the advice of legal counsel shall provide no authority other than the authority
 13 to make health care decisions on behalf of the principal and shall contain the
 14 following statement in not less than 10-point boldface type:

15 (1) "NOTICE TO PERSON
 16 MAKING THIS DOCUMENT" ^{center text}

17 YOU HAVE THE RIGHT TO MAKE DECISIONS ABOUT YOUR HEALTH
 18 CARE. NO HEALTH CARE MAY BE GIVEN TO YOU OVER YOUR OBJECTION,
 19 AND NECESSARY HEALTH CARE MAY NOT BE STOPPED OR WITHHELD IF
 20 YOU OBJECT.

21 BECAUSE YOUR HEALTH CARE PROVIDERS IN SOME CASES MAY NOT
 22 HAVE HAD THE OPPORTUNITY TO ESTABLISH A LONG-TERM
 23 RELATIONSHIP WITH YOU, THEY ARE OFTEN UNFAMILIAR WITH YOUR
 24 BELIEFS AND VALUES AND THE DETAILS OF YOUR FAMILY

a body part that is or
could be the subject of

s. 157.06

INS
3-8

1 RELATIONSHIPS. THIS POSES A PROBLEM IF YOU BECOME PHYSICALLY
2 OR MENTALLY UNABLE TO MAKE DECISIONS ABOUT YOUR HEALTH CARE.

3 IN ORDER TO AVOID THIS PROBLEM, YOU MAY SIGN THIS LEGAL
4 DOCUMENT TO SPECIFY THE PERSON WHOM YOU WANT TO MAKE
5 HEALTH CARE DECISIONS FOR YOU IF YOU ARE UNABLE TO MAKE THOSE
6 DECISIONS PERSONALLY. THAT PERSON IS KNOWN AS YOUR HEALTH
7 CARE AGENT. YOU SHOULD TAKE SOME TIME TO DISCUSS YOUR
8 THOUGHTS AND BELIEFS ABOUT MEDICAL TREATMENT WITH THE
9 PERSON OR PERSONS WHOM YOU HAVE SPECIFIED. YOU MAY STATE IN
10 THIS DOCUMENT ANY TYPES OF HEALTH CARE THAT YOU DO OR DO NOT
11 DESIRE, AND YOU MAY LIMIT THE AUTHORITY OF YOUR HEALTH CARE
12 AGENT. IF YOUR HEALTH CARE AGENT IS UNAWARE OF YOUR DESIRES
13 WITH RESPECT TO A PARTICULAR HEALTH CARE DECISION, HE OR SHE IS
14 REQUIRED TO DETERMINE WHAT WOULD BE IN YOUR BEST INTERESTS IN
15 MAKING THE DECISION.

16 THIS IS AN IMPORTANT LEGAL DOCUMENT. IT GIVES YOUR AGENT
17 BROAD POWERS TO MAKE HEALTH CARE DECISIONS FOR YOU. IT
18 REVOKES ANY PRIOR POWER OF ATTORNEY FOR HEALTH CARE THAT YOU
19 MAY HAVE MADE. IF YOU WISH TO CHANGE YOUR POWER OF ATTORNEY
20 FOR HEALTH CARE, YOU MAY REVOKE THIS DOCUMENT AT ANY TIME BY
21 DESTROYING IT, BY DIRECTING ANOTHER PERSON TO DESTROY IT IN
22 YOUR PRESENCE, BY SIGNING A WRITTEN AND DATED STATEMENT OR BY
23 STATING THAT IT IS REVOKED IN THE PRESENCE OF TWO WITNESSES. IF
24 YOU REVOKE, YOU SHOULD NOTIFY YOUR AGENT, YOUR HEALTH CARE
25 PROVIDERS AND ANY OTHER PERSON TO WHOM YOU HAVE GIVEN A COPY.

1 IF YOUR AGENT IS YOUR SPOUSE AND YOUR MARRIAGE IS ANNULLED OR
2 YOU ARE DIVORCED AFTER SIGNING THIS DOCUMENT, THE DOCUMENT
3 IS INVALID.

4 YOU MAY ALSO USE THIS DOCUMENT TO MAKE OR REFUSE TO MAKE
5 AN ANATOMICAL GIFT UPON YOUR DEATH. IF YOU USE THIS DOCUMENT
6 TO MAKE OR REFUSE TO MAKE AN ANATOMICAL GIFT, THIS DOCUMENT
7 REVOKES ANY PRIOR DOCUMENT RECORD OF GIFT THAT YOU MAY HAVE
8 MADE. YOU MAY REVOKE OR CHANGE ANY ANATOMICAL GIFT THAT YOU
9 MAKE BY THIS DOCUMENT BY CROSSING OUT THE ANATOMICAL GIFTS
10 PROVISION IN THIS DOCUMENT.

11 DO NOT SIGN THIS DOCUMENT UNLESS YOU CLEARLY UNDERSTAND
12 IT.

13 IT IS SUGGESTED THAT YOU KEEP THE ORIGINAL OF THIS
14 DOCUMENT ON FILE WITH YOUR PHYSICIAN."

History: 1989 a. 200; 1991 a. 281; 1993 a. 213, 491; 1997 a. 206.

15 **SECTION 6. 157.06** (1), (2), (3), (5), (6), (7), (8), (9) and (10) of the statutes are

16 repealed and recreated to read:

17 157.06 Anatomical gifts. (B)

(1) DEFINITIONS. In this section:

***NOTE: Adult is not defined here because it is defined in s. 990.01 (3).

18 (a) "Agent" means a health care agent, as defined in s. 155.01 (4), or an
19 individual who is expressly authorized in a record that is signed by the principal to
20 make an anatomical gift of the principal's body or part.

***NOTE: I modified the first clause of this definition to cross-reference the definition of health care agent under ch. 155. In the second clause, rather than referring to an individual who is authorized to make an anatomical gift on the principal's behalf, I refer to an individual who is authorized to make an anatomical gift of the principal's body or part. I did this to clarify that an agent may only assume the principal's authority to make gifts with respect to the principal's body or part, and not, for example, the principal's authority to make a gift of his or her child's body or parts.

(b) "Anatomical gift" means a donation of all or part of a human body to take effect after the donor's death for the purpose of transplantation, therapy, research, or education.

***NOTE: The UAGA definition of "anatomical gift" removes from the current law definition the specification of what constitutes death ("as determined in accordance with s. 146.71") -- is this ok?

replace w/ em dash

fix quot. mark

(c) "Decedent" means a deceased individual and includes a stillborn infant or a fetus.

***NOTE: I deleted the phrase "whose body or part is or may be the source of an anatomical gift" from the definition of "decedent." All of the references to "decedent" in the bill make sense without this phrase, and the reference to "decedent" in UAGA section 11 (j) [this bill sub. (10) (h)] makes more sense without the phrase. Section 11 (j) refers to a decedent who has made an unrevoked refusal -- if a person has made an unrevoked refusal, he is not an individual whose body or part may be the source of an anatomical gift.

replace w/ em dash

***NOTE: The UAGA comment to the definition of "decedent" includes a discussion on whether to include stillborn infants and fetuses in the definition of "decedent." If you do include fetuses, do you want to specify to which fetuses this definition applies, i.e., does a fetus have to be dead to be a "decedent?" I left out the qualification that "decedent" includes a fetus "subject to restrictions imposed by law other than this act," because the qualification is vague. Should the definition refer to specific restrictions?

em dash

(d) "Disinterested witness" means a witness who is not any of the following:

1. The spouse, child, sibling, grandchild, grandparent, or guardian of the individual who makes, amends, revokes, or refuses to make an anatomical gift.
2. A person who exhibited special care and concern for the individual who makes, amends, revokes, or refuses to make an anatomical gift.
3. Any other person to whom the anatomical gift could pass under sub. (10).

***NOTE: This bill uses the term "record of gift" in place of "document of gift."

(e) "Donor" means an individual whose body or part is the subject of an anatomical gift.

(f) "Donor registry" means a database that contains records of anatomical gifts and amendments to or revocations of anatomical gifts.

parent

* INS 6-11

④ **** NOTE: Should "guardian" cover a guardian of the estate?

1 (g) "Driver's license" means a license or permit to operate a vehicle, whether
2 or not conditions are attached to the license or permit, that is issued by the
3 department of transportation under ch. 343.

4 (h) "Eye bank" means a person that is licensed, accredited, or regulated under
5 federal or state law to engage in the recovery, screening, testing, processing, storage,
6 or distribution of human eyes or portions of human eyes.

7 (i) "Guardian" means a person appointed by a court to make decisions
8 regarding the support, care, education, health, or welfare of an individual, and does
9 not include a guardian ad litem.

10 (j) "Hospital" means a facility licensed ^{e approved} as a hospital under s. 50.35 or a facility
11 operated as a hospital by the federal government, a state, or a ^{political} subdivision of a state.

12 (k) "Identification card" means an identification card issued by the department
13 of transportation under s. 343.50.

****NOTE: Rather than defining "know" as having actual knowledge, I required
actual knowledge in each instance that the term know is used.

****NOTE: "Minor" is not defined here, because it is defined in s. 990.01 (20).

14 (L) "Organ procurement organization" means a person designated by the
15 Secretary of the U.S. Department of Health and Human Services as an organ
16 procurement organization.

17 (m) "Parent" has the meaning given under s. 48.02 (13).

****NOTE: The UAGA definition of parent provides little clarification. This bill uses
the definition of parent from the children's code, which is in accordance with the UAGA
comment, and includes the specification from UAGA that a parent does not include a
person whose parental rights have been terminated.

18 (n) "Part" means an organ, eye, or tissue of a human being. "Part" does not
19 mean a whole human body.

****NOTE: "Person" is not defined here because it is defined in s. 990.01 (26).

1 (o) "Physician" means an individual authorized to practice medicine or
2 osteopathy under the laws of any state.

3 (p) "Procurement organization" means an eye bank, organ procurement
4 organization, or tissue bank.

5 (q) "Prospective donor" means an individual who is dead or near death and has
6 been determined by a procurement organization to have a part that could be
7 medically suitable for transplantation, therapy, research, or education. An individual
8 who has refused to make an anatomical gift as provided under sub. (6) is not a A person
9 prospective donor.

10 (r) "Reasonably available" means able to be contacted by a procurement
11 organization without undue effort and willing and able to act in a timely manner
12 consistent with existing medical criteria necessary for the making of an anatomical
13 gift.

****NOTE: I did not define "recipient" because it is only used twice. Instead I incorporated the substance of the definition where UAGA uses the term.

14 (s) "Record" means information that is inscribed on a tangible medium or that
15 is stored in an electronic or other medium. and is retrievable in perceivable form

16 (t) "Record of gift" means a donor card or other record used to make an
17 anatomical gift, including a statement or symbol on a driver's license or
18 identification card or in a donor registry.

****NOTE: Please review the definition of "record of gift" which replaces "document of gift."

19 (u) "Record of refusal" means a record created under sub. (6) that expressly
20 states an intent to bar other persons from making an anatomical gift of an
21 individual's body or part.

****NOTE: This bill makes the defined term "record of refusal" rather than "refusal," because UAGA sometimes uses the term "refusal" to refer to any type of refusal to make

an anatomical gift, including an oral refusal. Alternatively, the bill could define the term "refusal" and delete record from the definition.

(v) "Sign" means to do any of the following with present intent to authenticate or adopt a record:

1. Execute or adopt a signature or tangible symbol.

2. Attach to or logically associate with the record an electronic symbol, sound, or process.

***NOTE: I added signature to par. (a). *subd. 1*

***NOTE: "State" is not defined here because it is defined in s. 990.01 (40). ✓

(w) "Technician" means an individual determined to be qualified to remove or process parts by an appropriate organization that is licensed, accredited, or regulated under federal or state law and includes an enucleator.

***NOTE: This definition is rather vague. Can we be more specific?

(x) "Tissue" means a portion of the human body other than an organ or eye and does not include blood unless the blood is donated for the purpose of research or education.

***NOTE: Rather than providing that tissue (and hence the term "part") includes blood only in the context of donations for research or education, it would be clearer to exclude blood from the definition of tissue and to include specific reference to blood in those provisions of s. 157.06 that apply to blood.

(y) "Tissue bank" means a person that is licensed, accredited, or regulated under federal or state law to engage in the recovery, screening, testing, processing, storage, or distribution of tissue.

(z) "Transplant hospital" means a hospital that furnishes organ transplants and other medical and surgical specialty services required for the care of transplant patients.

INS 9-17 (2) **Signing for a person who is physically unable.** If an individual who is physically unable to sign a record under sub. (4) (a) 4. or (b) 1., (5) (a) 1., (b) 1., (c)

1 1., or (d) 1., or (6) (a) 1. or (b) 1. directs another to sign the record on his or her behalf,
 2 the signature of the other individual authenticates the record as long as all of the
 3 following conditions are satisfied:

4 (a) The signature of the other individual is witnessed by at least two adults, at
 5 least one of whom is a disinterested witness.

6 (b) The witnesses sign the record at the request of the individual who is
 7 physically unable to sign.

8 (c) The record includes a statement that ^{is it} was signed and witnessed at the
 9 request of the individual who is physically unable to sign.

10 ****NOTE: I created this subsection to avoid repeating multiple times the process
 for directing another to sign a record.

11 (3) **Who may make an anatomical gift before donor's death.** ^{no B CS} Subject to ^{sub. 4}
 12 ^{sub. 4} any of the following may make an anatomical gift of ^{the} a donor's body or part
 during the life of [@] the donor. ^{in the manner provided in sub. 4}

13 (a) The donor, if he or she is at least 15 and one-half years of age or is an
 14 emancipated minor.

15 (b) An agent of the donor, unless the donor's power of attorney for health care
 16 instrument under ch. 155 or some other record ^{expressly} prohibits the agent from
 17 making an anatomical gift. ^{an unemancipated minor}

18 (c) A parent of the donor, if the donor is a minor and is not emancipated.

19 (d) A guardian of the donor.

****NOTE: Sub. (3) does not specify the purpose of an anatomical gift as UAGA Section 4 does, because the purpose is included in the definition of "anatomical gift."

****NOTE: What happens if individuals under sub. (3) (b) to (d) make conflicting gifts, for example a guardian and an agent?

****NOTE: Participants in the meeting on March 14, 2007, requested that I amend UAGA so that any person who may make an anatomical gift pertaining to a decedent may also make a gift before the decedent's death. I assume that the motivation for this request is avoid having to wait until a person dies before a person under proposed s. 157.06 (8) may execute an anatomical gift relating to a decedent. The last paragraph in the

Except as provided in
 Subs. (6) and (7)

comment to UAGA Section 10 explains that UAGA is silent on whether a gift relating to a decedent may be made when the subject of the gift is near death or only after death. The comment suggests that under UAGA, a person could make a gift [under 157.06 (9) in this bill] relating to a decedent before the subject of the gift dies. If you are not satisfied with the UAGA scheme, I suggest amending proposed s. 157.06 (9) to specify that a gift may be made before death. (Something to this effect, "A person who is authorized to make an anatomical gift under sub. (8) may do so when the subject of the anatomical gift is near death or after the subject has died by doing any of the following.") This solution is better than amending proposed s. 157.06 (3) to allow more people to make gifts before a donor's death, because it maintains the distinction between gifts made without any specific anticipation of death and those made with specific anticipation of death, and it avoids the necessity of specifying a priority for those who may make a gift under proposed sub. (3).

under sub. (3) (a)

1 **(4) Manner of making an anatomical gift before donor's death.** (a) A

2 donor may make an anatomical gift by doing any of the following:

3 1. Authorizing a person to imprint on the donor's driver's license or
4 identification card a statement or symbol that indicates that the donor has made an
5 anatomical gift.

6 2. Including an anatomical gift in his or her will.

7 3. If the donor has a terminal illness or injury, communicating the anatomical
8 gift by any means to at least two adults, at least one of whom is a disinterested
9 witness.

10 4. Signing a donor card or other record that includes an anatomical gift or, if
11 physically unable to sign a record, by directing another individual to sign the record
12 as provided ⁱⁿ sub. (2).

13 5. Authorizing a person to include ⁱⁿ a donor registry a statement or symbol
14 that indicates that the donor has made an anatomical gift.

15 **(b) Any individual** under sub. (3) (b) to (d) ⁱⁿ may make an anatomical gift of
16 a donor's body or part during the donor's life by doing any of the following:

17 1. Signing a donor card or other record that includes an anatomical gift or, if
18 physically unable to sign a records, by directing another **individual** to sign the record
19 as provided in sub. (2).

JWS
11-5

A person

person
another
e in
2. Authorizing a person to include on a donor registry a statement or symbol that indicates that the individual has made an anatomical gift of the donor's body or part.

(c) The revocation, suspension, expiration, or cancellation of a driver's license or identification card on which an anatomical gift has been made under par. (a) 1. does not invalidate the anatomical gift.

(d) An anatomical gift made by will takes effect upon the donor's death whether or not the will is probated. Invalidation of the will after the donor's death does not invalidate the anatomical gift.

****NOTE: I reorganized this subsection so it doesn't mix the treatment of donors and others authorized to make an anatomical gift. Also, I added a clarification under par. (b) that this section applies only to gifts made during the donor's life, since statutory section titles are not binding.

CS NO B
(5) Amending or revoking anatomical gift before donor's death. (a)

Subject to sub. (7), a donor may amend an anatomical gift of his her body or part of by doing any of the following:

1. Signing a record that amends the anatomical gift or, if physically unable to sign, directing another to sign the record as provided under sub. (2).

Subsequently
2. Executing a subsequent record of gift that amends the anatomical gift or a portion of the anatomical gift either expressly or by inconsistency. previously executed

3. If the anatomical gift was not made in a will and the donor has a terminal illness or injury, by communicating in any manner an amendment of the anatomical gift to at least two adults, at least one of whom is a disinterested witness. amending the will

4. If the anatomical gift was made in a will, in the manner provided for amending a will, or as provided under subd. 1. et

(b) Subject to sub. (7), a donor may revoke an anatomical gift of his or her body or part by doing any of the following:

1 1. Signing a record that revokes the anatomical gift or, if physically unable to
2 * sign, directing another to sign the record as provided ⁱⁿ under sub. (2).

3 *Subsequently* 2. Executing a subsequent record of gift that revokes ^{the} ~~the~~ *previously executed* anatomical
4 gift either expressly or by inconsistency. *or a portion of a previously executed anatomical gift*

5 3. If the anatomical gift was not made in a will and if the donor has a terminal
6 illness or injury, communicating in any manner the revocation of the anatomical gift
7 to at least two adults, at least one of whom is a disinterested witness.

8 4. If the anatomical gift was made in a will, *revoking the gift* in the manner provided for revoking
9 *a will, or as provided under sub. 1.* *amending or revoking the will*

10 5. *a person* Destroying or cancelling the record of gift, or the portion of the record of gift
11 used to make the anatomical gift, with intent to revoke the anatomical gift.

12 (c) Subject to sub. (7), an individual who is authorized to make an anatomical
13 gift under sub. (3) (b) to (d) may amend an anatomical gift of a donor's body or part
14 before the donor's death by doing any of the following:

15 1. Signing a record that amends the anatomical gift or, if physically unable to
16 * sign, directing another to sign the record as provided ⁱⁿ under sub. (2). *use 2x7*

17 *Subsequently* 2. Executing a subsequent record of gift that amends ^a ~~the~~ *previously executed* anatomical gift or a
18 portion of the anatomical gift either expressly or by inconsistency.

19 (d) Subject to sub. (7), an individual who is authorized to make an anatomical
20 gift under sub. (3) (b) to (d) may revoke an anatomical gift of a donor's body or part
21 before the donor's death by doing any of the following:

22 1. Signing a record that revokes the anatomical gift or, if physically unable to
23 * sign, directing another to sign the record as provided ⁱⁿ under sub. (2). *Subsequently*

24 2. Executing a subsequent record of gift that revokes ^a ~~the~~ *previously executed* anatomical
25 gift either expressly or by inconsistency. *or a portion of a previously executed anatomical gift* *previously executed*

* If the anatomical gift was made in a record of gift,

If the anatomical gift was made in a record of gift;

3. Destroying or cancelling the record of gift, or the portion of the record of gift used to make the anatomical gift, with intent to revoke the anatomical gift.

***NOTE: As under sub. (4), I separated the treatment of donors and others and also separated the treatment of amendment and revocation. (CS) (no B)

(6) **Refusal to make an anatomical gift; effect of refusal.** (a) An individual may refuse to make an anatomical gift of the individual's body or part by doing any of the following:

1. Signing a record refusing to make an anatomical gift or, if physically unable to sign, directing another to sign the record as provided in sub. (2).

2. Including a refusal to make an anatomical gift in the individual's will, whether or not the will is admitted to probate or invalidated after the individual's death.

3. If the individual has a terminal illness or injury, communicating in any manner a refusal to make an anatomical gift to at least two adults, at least one of whom is a disinterested witness.

(b) An individual who has made a refusal to make an anatomical gift under par. (a) may amend or revoke the refusal to make an anatomical gift by doing any of the following: this subsection

1. Signing a record amending or revoking the refusal to make an anatomical gift or, if physically unable to sign, directing another to sign the record as provided in sub. (2).

2. If the refusal to make an anatomical gift was made in the individual's will, by amending or revoking the will.

, whether or not the will is admitted to probate or invalidated after the individual's death

1 4 (3). If the individual has a terminal illness or injury, communicating in any
 2 manner an amendment to or revocation of the refusal to make an anatomical gift to
 3 at least two adults, at least one of whom is a disinterested witness.

4 5. Subsequently making an anatomical gift as provided under sub. (3) that is
 5 inconsistent with the refusal to make an anatomical gift.

6 5. Destroying or canceling the record of refusal, or the portion of the record of
 7 refusal, that evidenced the refusal to make an anatomical gift, with intent to revoke
 8 the refusal to make an anatomical gift.

9 (c) Except as provided in sub. (7) (h), in the absence of an express, contrary
 10 indication by an individual set forth in a refusal to make an anatomical gift under
 11 par. (a), the individual's unrevoked refusal under par. (a) to make an anatomical gift
 12 of his or her body or part bars all other persons from making an anatomical gift of
 13 the individual's body or part.

****NOTE: UAGA section 7 (c) provides that an individual who has made a refusal may amend or revoke the refusal. Refusal is defined as a record, so it does not include an oral refusal under UAGA section 7 (a) (3). Therefore an oral refusal cannot be amended under UAGA section 7 (c). I assume that the UAGA drafters did not intend to preclude amending or revoking an oral refusal. Again in UAGA section 7 (d), I assume the use of the term refusal is not meant to exclude refusal that are made orally.

14 **(7) Preclusive effect of anatomical gift, amendment, or revocation. (a)**

15 Except as provided in par. (g) and subject to par. (f), in the absence of an express,
 16 contrary indication by the donor, an individual other than the donor may not make,
 17 amend, or revoke an anatomical gift of the donor's body or part if the donor has
 18 anatomical gift of his or her body or part under sub. (4) (a) or in amendment under
 19 sub. (5) (a).

****NOTE: Should the 2nd to last line in paragraph (a) specify "that" part? Also, should that line refer to an "unrevoked" anatomical gift?

to an anatomical gift

* If the refusal to make an anatomical gift was made in a record of refusal

this subsection

under this subsection

* a person

person

to an anatomical gift of the donor's body or part

(b) A donor's revocation of an anatomical gift of the donor's body or part under sub. (5) (b) is not a refusal to make an anatomical gift and does not bar another individual authorized to make an anatomical gift under sub. (3) from making an anatomical gift of the donor's body or part under sub. (4) and does not bar an individual who is authorized to make an anatomical gift under sub. (8) from making an anatomical gift under sub. (9).

(c) If a person other than the donor makes an unrevoked anatomical gift of the donor's body or part under sub. (4) (b) or in an amendment under sub. (5) (c), another individual may not make, amend, or revoke the anatomical gift under sub. (9).

(d) If an individual other than the donor revokes an anatomical gift of the donor's body or part under sub. (5) (d), the revocation does not bar another individual from making an anatomical gift of the donor's body or part under sub. (4) or (9).

(e) An anatomical gift of a part that is made under sub. (4) or in an amendment under sub. (5), absent an express contrary indication by the person who made the anatomical gift, is not a refusal to make an anatomical gift of another part of the donor or a limitation on a later anatomical gift of another part of the donor.

****NOTE: Paragraphs (e) and (f) provide that a gift of a part that is made before the donor's death does not limit expansion of the gift after death. Should the bill also provide that a gift made after death does not limit later expansion of the gift by another, or would these provisions not be relevant to gifts made after death?

(f) An anatomical gift of a part that is made under sub. (4) or in an amendment under sub. (5) for a specified purpose for which an anatomical gift may be made, absent an express contrary indication by the individual who made the anatomical gift, does not limit an individual from making an anatomical gift of the part under sub. (4), (5) or (9) for any of the other purposes for which an anatomical gift may be made.

a person

or otherwise make an anatomical gift of the body or part under sub. (5)

donor or other

person

(not) Also, this bill allows a person to change/expand the purpose of the gift in an amendment under sub (5), not just in a new gift made under sub (4) or (9) - is this OK?

***NOTE: I don't think this clearly accomplishes what is described in the comment to UAGA section 8 (f). The comment states that if a person makes a gift for one purpose, that person or another may expand the gift to include another purpose. This language appears to allow a person to substitute, not just expand, the purpose of the gift.

(g) If a donor who is an unemancipated minor dies, a parent of the donor who is reasonably available may revoke or amend an anatomical gift of the donor's body or part.

(h) If an unemancipated minor who ^{has} made a refusal to make an anatomical gift under sub. (6) dies, a reasonably available parent of the minor may revoke the minor's refusal to make an anatomical gift.

***NOTE: I assumed that a parent should be able to revoke any kind of refusal, including an oral refusal by a minor suffering a terminal illness, not just a refusal made in a record that is signed by the minor.

(8) **Who may make an anatomical gift of decedent's body or part.** (a)

Except as provided in sub. (6) ^s or (7) and subject to pars. (b) and (c), any member of the following classes of individuals, in the order of priority listed, who is reasonably available may make an anatomical gift of a decedent's body or part:

1. A person who was the decedent's agent at the time of the decedent's death and who, immediately ^{before} preceding the decedent's death, had authority under sub. (3) (b) to make an anatomical gift of the decedent's body or part.

2. The spouse of the decedent.

3. The adult children of the decedent.

4. The parents of the decedent.

5. The adult siblings of the decedent.

6. The adult grandchildren of the decedent.

7. The grandparents of the decedent.

8. Adults who exhibited special care and concern for the decedent.

9. A guardian of the decedent at the time of the decedent's death.

Persons who were guardians

in the manner provided in sub. (9)

10. Any other persons who have authority to dispose of the decedent's body.

****NOTE: Who is covered under subd. 10? Is it just a superintendent of an institution under 157.02, or a coroner or medical examiner under s. 979.02? If so, do you want to specify these people?

(b) If the members of a class of individuals under par. (a) 1., 3., 4., 5., 6., 7., or 9. have priority to make an anatomical gift of a decedent's body or part under par. (a) and the class consists of more than one member, any member of the class may make an anatomical gift unless that member or the person to whom the anatomical gift will pass under sub. (10) has actual knowledge of an objection by another member of the class, in which case the anatomical gift may be made only by a majority of members of the class who are reasonably available.

****NOTE: Please review my rewrite.

(c) A person may not make an anatomical gift of a decedent's body or part if, at the time of the decedent's death, a person who is a member of a class with higher priority under par. (a) is reasonably available to make or object to the making of an

anatomical gift.

(9) Manner of making, amending, or revoking an anatomical gift of decedent's body or part. (a) A person authorized under sub. (8) to make an anatomical gift of a decedent's body or part may do so by doing any of the following:

1. Signing a record of gift.
2. Making an oral communication of an anatomical gift that is electronically recorded.
3. Making an oral communication of an anatomical gift that is contemporaneously reduced to a record, which is signed by the individual receiving the oral communication.

and that

and who is reasonably available

in the manner provided in par. (d)

persons

person

(b) A member of a class of individuals that has higher priority to make an anatomical gift under sub. (8) than the individual who made an anatomical gift under par. (a) may amend the anatomical gift, except that if more than one member of the class with higher priority is reasonably available, the agreement of a majority of the reasonably available members is required to amend the anatomical gift.

(c) 1. Subject to subd. 2., a member of a class of individuals that has higher priority to make an anatomical gift under sub. (8) than the individual who made an anatomical gift under par. (a) may revoke the anatomical gift, except that if more than one member of the class with higher priority is reasonably available, the agreement of at least one-half of the reasonably available members is required to revoke the anatomical gift.

2. A revocation of an anatomical gift under subd. 1. is effective only if before an incision is made to remove a part from the donor's body or before invasive procedures have been begun to prepare the recipient, the procurement organization, transplant hospital, or physician or technician has actual knowledge of the revocation.

(d) A person who is authorized to amend or revoke an anatomical gift under par. (b) or (c) may do so orally or by including the amendment or revocation in a record.

(e) If an individual makes anatomical gift as provided under par. (a) 2. or 3., the individual receiving the oral communication shall read aloud to the individual making the anatomical gift, the sentences required under sub. (23) (a). If the anatomical gift is made as provided under par. (a) 3., the individual who reduces the anatomical gift to a record shall note on the record that the individual making the anatomical gift has been read the sentences required under sub. (23) (a) and note any limitations that the individual making the anatomical gift imposes on the use of

person

any
1 bones or tissues that are the subject of the anatomical gift or any limitations on the
2 types of organizations that recover, process, or distribute ^{the} bones or tissues.

***NOTE: I restructured this subsection.

***NOTE: Paragraph (e) is not in UAGA. Paragraph (e) includes provisions from
current law s. 157.06 (3) (c) 2. b. and c., that were created in 2005 Act 229.

(CS) (NO 8)
3 **(10) Persons that may receive anatomical gifts; purpose of gifts.** (a) An

4 anatomical gift may be made to any of the following persons named in the record of
5 gift:

***NOTE: What is the purpose of par. (a)? Is it to require that if a recipient is named
in the record of gift, the gift must pass to the named recipient? Is it to provide that a gift
may be made only to the persons listed? Is it to state who may receive a gift? (c) 5

***NOTE: Should this subsection refer to persons specified in an "anatomical gift"
rather than persons specified in a "record of gift?" As written it is not applicable to to
anatomical gifts made orally. (This question is applicable to pars. (a) (intro.), (d), and (e).)

6 1. For the purpose of research or education, a hospital, accredited medical
7 school, dental school, college, university, organ procurement organization, or other
8 appropriate person.

***NOTE: I assumed from the comment that the purpose of research or education
is supposed to apply to all the recipients. Please let me know if this is not correct.

9 2. Subject to par. (b), an individual into whose body the decedent's part is
10 intended to be transplanted. a

***NOTE: Rather than defining "recipient" this bill includes the substance of the
definition in this subdivision. Also, since the introduction to this paragraph provides that
the recipient is named in the record of gift, I deleted the redundant requirement in this
subdivision that the person making the anatomical gift designate the recipient.

11 3. An eye bank or tissue bank.

12 4. An organ procurement organization, as custodian of a part for transplant or
13 therapy.

***NOTE: I added subdivision 4. because in the March 14, 2007 meeting the group
requested clarification that a person may make a gift to a specific OPO. Should an OPO
still be included in subd. 1, i.e., does an OPO ever accept a gift for research or education?

14 (b) If a part donated to an individual under par. (a) 2. cannot be transplanted
15 into the individual, the part passes in accordance with par. (d) 1., 2., or 3., whichever

that is the subject of an anatomical gift made

as provided in
par. (f) 1. to 3. ✓

1 is applicable, absent an express, contrary indication by the person making the
2 anatomical gift.

3 (c) If an anatomical gift of one or more specific parts or all parts is made in a
4 record of gift that does not name a person under (a) 1. to 4. as the person to whom
5 the anatomical gift is made, but identifies the purpose for which the anatomical gift
6 may be used, all of the following apply: of

7 1. If the the purpose of the anatomical gift is transplantation or therapy, the
8 part passes as provided under par. (d) 1. to 3. (f) ✓

9 2. If the purpose of the anatomical gift is research or education, the part passes
10 to the appropriate procurement organization.

***NOTE: Why say the "appropriate procurement agency" instead of directing that
the part pass as provided under par. (d) 1. to 3. (f)?

11 3. If more than one purpose of an anatomical gift is set forth in a record of gift,
12 but the purposes are not set forth in any priority, the parts shall be used for
13 transplantation or therapy, if suitable, and if the parts cannot be used for
14 transplantation or therapy, may be used for research or education.

***NOTE: Subdivision 3. is UAGA section 11 (d). Please verify that UAGA section
11 (d), like par. (c), applies only to gifts of specific parts, and not also to a gift of a body.

15 (d) If an anatomical gift of one or more specific parts is made in a record of gift
16 that does not name a person under par. (a) 1. to 4. as the person to whom the
17 anatomical gift is made and does not identify the purpose of the anatomical gift, the
18 parts may be used only for transplantation or therapy, and the parts pass to one of
19 the following as provided in par. (f) ✓

20 1. If the part is an eye, the anatomical gift passes to the appropriate eye bank.
21 2. If the part is tissue, the anatomical gift passes to the appropriate tissue bank.

3. If the part is an organ, the anatomical gift passes to the appropriate organ procurement organization, as custodian of the organ.

***NOTE: Rather than stating in a separate paragraph that an OPO receives an organ only as custodian, this bill includes the custodian status here.

(e) If a record of gift specifies only a general intent to make an anatomical gift by words such as "donor," "organ donor," or "body donor," or by a symbol or statement of similar meaning, the donor's anatomical gift may be used only for the purpose of transplantation or therapy, and the parts pass as provided in par. (d) 1. to 3. (4).

***NOTE: I used "meaning" instead of "import."

(f) If a body or part that is the subject of an anatomical gift does not pass pursuant to pars. (a) to (e) or is not used for transplantation, therapy, research, or education, custody of the body or part passes to the person who is obligated to dispose of the body or part.

***NOTE: Do you want to be more specific as to who is obligated to dispose of the body? You could provide that unless the superintendent of an institution where the deceased resided is required under s. 157.02 to dispose of the body, the coroner or medical examiner is responsible for disposing of the body, as under s. 979.09.

(g) A person may not accept an anatomical gift of a decedent's body or part if the person has actual knowledge that the anatomical gift was not effectively made under sub. (4) or (9) or if the person has actual knowledge that the decedent made a refusal to make an anatomical gift under sub. (6) that was not revoked. For purposes of this subsection, if a person has actual knowledge that an anatomical gift was made on a record of gift, the person is deemed to have actual knowledge of any amendment or revocation of the anatomical gift or any refusal to make an anatomical gift that is on the same record of gift.

***NOTE: UAGA Section 11 (j) refers to a refusal, which is defined only as a refusal made in a record. I assume that the first sentence of this paragraph is intended to cover any type of refusal, including a refusal that is made orally.

****NOTE: "Know" is defined in UAGA as having actual knowledge. I substituted the definition each time the term "know" is used. Hence in the last sentence of this paragraph, a person is deemed to have actual knowledge, ok?

****NOTE: Rather than saying a gift was "not effectively made," do you want to say the gift was not made as provided under sub. (4), (5), or (9)?

(i) Except as provided under par. (a) 2., nothing in this section affects the allocation of organs for transplantation or therapy. If any

(11) Search and notification. (a) All of the following persons shall make a

reasonable search of an individual whom the person reasonably believes to be dead

or near death for a record of gift or a record of refusal or other information identifying

the individual as a donor or as an individual who has refused to make an anatomical

gift.

1. A law enforcement officer, fire fighter, emergency medical technician, first responder, or ambulance service provider.

2. If no other source of information is immediately available, a hospital, as soon as practical after the individual's arrival at the hospital.

(b) If a record of gift or record of refusal is located by a search under par. (a) 1., and the individual or deceased individual to whom the record or gift or record of refusal relates is taken to a hospital, the person responsible for conducting the search shall send the record of gift or record of refusal to the hospital.

(c) A person is immune from any criminal or civil liability for failure to discharge the duties imposed under this subsection but may be subject to an administrative sanction for such failure.

(12) Delivery of record of gift not required; right to examine. (a) A record of gift need not be delivered during the donor's lifetime to be effective.

(b) Upon or after an individual's death, a person who has possession of a record of gift or a record of refusal relating to the individual's body or part, shall allow any

1 person who is authorized to make or object to the making of an anatomical gift of the
 2 individual's body or part, or any person to whom the body or part could pass under
 3 sub. (10), to examine and copy the record of gift or record of refusal.

4 **(13) Rights and duties of procurement organization and others.** (a) A

5 procurement organization shall do all of the following when a hospital refers an
 6 individual who is near death or who is deceased to the procurement organization:

****NOTE: I reorganized this subsection to group all of the duties of a procurement organization in one paragraph. The requirement that the department of transportation provide POs access to information [UAGA Section 14 (b)] is in ch. 343.

****NOTE: Perhaps this paragraph should refer to a decedent rather than a deceased individual, particularly if it is important to incorporate the substance of the definition of decedent.

7 1. Make a reasonable search of the records of the department of transportation
 8 and any donor registry that it has actual knowledge exists for the geographical area
 9 in which decedent resides or resided to ascertain whether the individual is a donor.

10 2. Make a reasonable search for any person under sub. (8) having priority to
 11 make an anatomical gift on behalf of the individual.

****NOTE: Is this supposed to require the PO to search for the person with highest priority or just any person who has any authority to make a gift?

12 3. If the individual referred is a minor who was a donor or who had signed a
 13 record of refusal and the minor dies, unless the procurement organization has actual
 14 knowledge that the minor was emancipated, conduct a reasonable search for the
 15 parents of the minor and provide the parents an opportunity to revoke or amend the
 16 anatomical gift or record of refusal relating to the minor.

****NOTE: Why does this subdivision require a search for the parents only after the minor dies, and not when the minor is near death?

17 4. If the procurement agency receives information about an anatomical gift of
 18 the individual's body or part that under sub. (10) passes to a person other than the

1 procurement organization, promptly advise the other person of relevant information
2 regarding the anatomical gift.

***NOTE: The second sentence in UAGA Section 14 (g) is not clear. It states that if a PO receives information that an anatomical gift to any other person was made, the PO must advise that person. I interpret "a gift to any other person" as a gift that specifies who is to receive the gift. It is clear from the comment, that the intent is to make sure that a PO informs a person to whom a gift should pass under sub. 9 of the gift. Is my change ok?

3 (b) When a hospital refers an individual who is dead or near death to a
4 procurement organization, the procurement organization may conduct any
5 reasonable examination to ensure the medical suitability of a part that is or could be
6 the subject of an anatomical gift for transplantation, therapy, research, or education
7 from a donor or a prospective donor. Unless otherwise prohibited by law, an
8 examination under this paragraph may include an examination of all of the donor's
9 or prospective donor's [individual's] medical or dental records. During the
10 examination period, measures necessary to ensure the medical suitability of the part
11 may not be withdrawn unless the hospital or procurement organization has actual
12 knowledge that the individual expressed a contrary intent.

***NOTE: The first sentence of this paragraph [UAGA Section 14 (c)] starts with a reference to an "individual" and then uses the term "donor or prospective donor." This is confusing because a "prospective donor" is defined as a individual who is determined by a PO to have a medically suitable part and who has not refused to make a gift. Does this mean that the PO can conduct an examination only after determining that an individual is a donor or prospective donor? That doesn't make sense. Further the stated purpose of the examination is to "ensure" medical suitability, i.e. to make sure or guarantee that a part is suitable. Should the PO be "determining" rather than "ensuring" medical suitability? Is this how the first sentence should read: "When a hospital refers an individual at or near death to a procurement organization, the procurement organization may conduct a reasonable examination to determine whether a part of the individual that is or could be the subject of an anatomical gift is medically suitable for transplantation, therapy, research, or education."

***NOTE: The bill moves the substance of UAGA Section 14 (d) into the paragraphs that authorize examinations.

13 (c) Unless otherwise prohibited by law, at any time after a donor's death, the
14 person to whom the donor's body or part passes under sub. (10) may conduct any

1 reasonable examination, including an examination of all of the donor's medical or
2 dental records, to ensure the medical suitability of the donor's body or part for its
3 intended purpose.

****NOTE: Again, should "ensure" be "determine?" What is the "intended purpose of a body or part?" Does this refer to the function of the part, or is it the purpose of the anatomical gift?

4 (d) Subject to sub. (10) ^S ~~(10)~~ ^(g), (20), and (21), the rights of the person to whom an
5 anatomical gift of a part passes under sub. (10) are superior to the rights of all others
6 with respect to a part. The person may accept or reject an anatomical gift in whole
7 or in part. A person who accepts an anatomical gift of a part shall cause the part to
8 be removed from the donor's body after the death of the donor and before embalming,
9 burial, or cremation and without unnecessary mutilation.

****NOTE: Why is this paragraph made subject to sub. (10) ^(g) ~~(f)~~? This is UAGA section 14 (h), which is made subject to UAGA section 11 (i). *Should the bill instead make an exception if the gift passes under sub. (10)(g)?*

****NOTE: Is it intended that the first two sentences of UAGA Section 14 (h) only apply to parts and not bodies? Since the third sentence of (h) applies to gifts of bodies, and all the other sentences apply only to parts, I moved the third sentence to a different paragraph. The last sentence requires removal of a part "upon" the death of the donor -- I changed it to "after" the death, ok?

10 (e) Subject to the terms of a record of gift and this section, a person who accepts
11 an anatomical gift of an entire body may allow embalming, burial, cremation, or use
12 of the remains of the body in a funeral services.

****NOTE: Should "record of gift" be "anatomical gift in order to include gifts made orally?

13 (f) A physician who attends a decedent at death or determines the time of death
14 may not participate in the procedures for removing or transplanting a part from the
15 decedent.

16 (g) Only a physician or technician who is qualified to do so may remove a part
17 from the body of a donor.

****NOTE: I changed this [UAGA Section 14 (j)] to be a qualification on which physicians or technicians may remove parts, rather than a broad grant to remove parts.

bodies and parts that are the subject of

CS NOB

(14) **Coordination of procurement and use.** Each hospital in this state shall enter into agreements or affiliations with procurement organizations for coordination of procurement and use of anatomical gifts.

CS NOB

(15) **Prohibited acts related to records.** Any person who intentionally falsifies, forges, conceals, defaces, or obliterates a record of gift, an amendment or revocation of a record of gift, or a record of refusal for pecuniary gain is guilty of a Class H felony, except that notwithstanding the maximum fine specified in s. 939.50 (3) (h), the person may be fined not more than \$50,000.

****NOTE: Should this also apply to falsification, etc. or amends to or revocations of records of refusal?

INS 27-8

CS NOB

(16) **Immunity.** (a) A person who acts, or in good faith attempts to act, in accordance with this section or with the applicable anatomical gift law of another state is not liable for the act in a civil action, criminal prosecution, or administrative proceeding.

or the use of the body or any part that is the subject of the anatomical gift

(b) A person who makes an anatomical gift and the person's estate are not liable for any injury or damage that results from the making or use of the anatomical gift.

(c) A person may rely on ^arepresentations made by an individual listed under sub. (8) (a) 2., 3., 4., 5., 6., 7., or 8. as to the individual's relation to a donor or prospective donor in determining whether an anatomical gift of the donor's or prospective donor's body or part has been made, amended, or revoked.

****NOTE: Shouldn't this say that a person may rely on a representation made by an individual purporting to be an individual under sub. (8) (a)?

CS NOB

(17) **Law governing validity; choice of law as to execution of record of gift; presumption of validity** (a) A record of gift is valid if executed in accordance

CS NOB

with any of the following:

1. This section.

1 2. The laws of the state or county where it was executed.

2 3. The laws of the state or county where the individual making the anatomical
3 gift was domiciled, ^{he had} ~~has~~ a place of residence, or was a national at the time the record
4 of gift was executed.

INS 28-4 → (18) ^{(CS) (NO B)} **Donor Registry.** ^{g subsection} The department of health and family services may
6 establish a donor registry. If the department of health and family services
7 establishes a donor registry under this paragraph, the department of transportation
8 shall cooperate with the department of health and family services in establishing the
9 donor registry. The department of health and family services shall promulgate
10 administrative rules governing any donor registry established under this
11 paragraph.

(CS) (NO B)
12 (19) **Effect of anatomical gift on advance health care directive.** If a
13 prospective donor executed a declaration, as defined in s. 154.02 (1), or a power of
14 attorney for health care instrument under ch. 155, measures necessary to ensure the
15 medical suitability of an organ for transplantation or therapy may not be withheld
16 or withdrawn from the prospective donor unless the declaration or power of attorney
17 for health care instrument expressly provides to the contrary.

INS 28-17 → ******NOTE:** The exception in the of UAGA Section 21 only addresses declarations,
not powers of attorney, but the comment refers to an exception for both, so I included both
in the exception.

18 **SECTION 7.** 157.06 (4) of the statutes is renumbered 157.06 (20) and 157.06 (20)
19 (am) (intro.), 1., 2. and 3., as renumbered, are amended to read:

20 157.06 (20) (am) (intro.) The coroner or medical examiner may release and
21 permit the removal of a part from, a decedent specified in par. (ag) within that
22 official's custody, for transplantation or therapy, including to a tissue bank under the
23 requirements of sub. (4r) (22), if all of the following apply:

1 1. The official has received a request for the part of the body from a hospital,
2 physician or organ procurement organization.

3 2. The official has made a reasonable effort, taking into account the useful life
4 of the part of the body, to locate and examine the decedent's medical records and,
5 subject to sub. (6m) (23), inform individuals listed in sub. (3) (a) (8) of their option to
6 make, or object to making, an anatomical gift.

7 3. The official does not ^{know} have actual knowledge of a refusal to make an
8 anatomical gift or contrary indication by the decedent or of an objection by an
9 individual having priority to act as listed in sub. (3) (a) (7).

History: 1971 c. 40 s. 93; 1971 c. 213 s. 5; 1977 c. 46, 124; 1979 c. 175 s. 53; 1979 c. 221 s. 2202 (45); 1981 c. 20, 290; 1983 a. 485; 1985 a. 286, 315; 1985 a. 316 s. 14; Stats. 1985 s. 157.06; 1989 a. 105; 1989 a. 298 ss. 3, 10m, 11m; 1991 a. 32; 1995 a. 27 s. 9126 (19); 1997 a. 52, 206, 305; 1999 a. 83; 2001 a. 103; 2005 a. 229, 230.

10 **SECTION 8.** 157.06 (4m) of the statutes is renumbered 157.06 (21) and 157.06

11 (21) (a) (intro.) and 1., (c), and (e) 1. and 2., as renumbered, are amended to read:

12 157.06 (21) (a) Subject to par. (b), for a decedent who meets the criteria for a
13 determination of death under s. 146.71, who is a donor ~~or of whom an anatomical gift~~
14 ~~has been made under sub. (3),~~ and who is within the jurisdiction of a coroner or
15 medical examiner under ch. 979, any vascularized organ that is the subject of an
16 anatomical gift may be removed by a physician, within a time period compatible with
17 preservation of the organ for purposes of transplantation, if all of the following take
18 place:

 ****NOTE: Should reference to purposes of transplantation be for purposes of
transplantation or therapy? This also applies to par. (c).

19 1. Immediately after the hospital in which the donor, or potential decedent, or
20 decedent donor is located contacts the organ procurement organization designated
21 for the region of which the hospital is a part concerning the potential donation, the
22 organ procurement organization shall, by oral conversation, provide notice to the
23 coroner or medical examiner or his or her designee of the referral of the donor, or

1 potential decedent, or decedent donor and shall provide notice of the referral to the
2 district attorney or his or her designee.

3 (c) For a decedent specified under par. (a), as authorized under the
4 requirements of this section by the coroner, medical examiner, or designee with
5 jurisdiction over the decedent, any part other than a vascularized organ that is a
6 subject of an anatomical gift may be removed by a physician and any part that is
7 tissue or bone may be removed by a technician or tissue bank employee, within a time
8 period compatible with preservation of the part for purposes of transplantation.

9 (e) 1. A physician who removes an organ from a decedent under this subsection
10 shall complete a form, as specified in sub. ~~(9m)~~ (24) (a).

11 2. A physician, technician, or tissue bank employee who removes tissue, other
12 than cardiovascular tissue, from a decedent under this subsection shall complete a
13 form, as specified in sub. ~~(9m)~~ (24) (b).

14 **Cross Reference:** Cross Reference: Cross Reference: See also ch. HFS 137, Wis. adm. code. **Cross Reference:**

History: 1971 c. 40 s. 93; 1971 c. 213 s. 5; 1977 c. 46, 124; 1979 c. 175 s. 53; 1979 c. 221 s. 2202 (45); 1981 c. 20, 290; 1983 a. 485; 1985 a. 286, 315; 1985 a. 316 s. 14;
Stats. 1985 s. 157.06; 1989 a. 105; 1989 a. 298 ss. 3, 10m, 11m; 1991 a. 32; 1995 a. 27 s. 9126 (19); 1997 a. 52, 206, 305; 1999 a. 83; 2001 a. 103; 2005 a. 229, 230.

15 **SECTION 9.** 157.06 (4r) of the statutes is renumbered 157.06 (22) and 157.06 (22)

16 (a) 3., as renumbered, is amended to read:

17 157.06 (22) (a) 3. Upon receipt of a notification under subd. 2., the tissue bank
18 so notified, if willing to receive the tissue donation, shall contact an available
19 individual, under the priority established in sub. ~~(3)~~ (8), to request that the
20 individual make an anatomical gift of all or a part of the decedent's tissue.

History: 1971 c. 40 s. 93; 1971 c. 213 s. 5; 1977 c. 46, 124; 1979 c. 175 s. 53; 1979 c. 221 s. 2202 (45); 1981 c. 20, 290; 1983 a. 485; 1985 a. 286, 315; 1985 a. 316 s. 14;
Stats. 1985 s. 157.06; 1989 a. 105; 1989 a. 298 ss. 3, 10m, 11m; 1991 a. 32; 1995 a. 27 s. 9126 (19); 1997 a. 52, 206, 305; 1999 a. 83; 2001 a. 103; 2005 a. 229, 230.

21 **SECTION 10.** 157.06 (6m) of the statutes is renumbered 157.06 (23) and
22 amended to read:

23 157.06 (23) CONSENT FOR OR LIMITATION ON CERTAIN USES OF BONES OR TISSUE;
24 REQUIREMENTS. (a) A hospital, organ procurement organization, tissue bank, coroner,

1 or medical examiner that provides a document record of gift to a potential donor or
2 to an individual who may make an anatomical gift under sub. (3) (a) or (8) shall
3 include in the document record of gift the following sentences: "I understand that
4 donated bones or tissues, including skin, may have numerous uses, including for
5 reconstructive and cosmetic purposes, and that multiple organizations, including
6 nonprofit and for-profit organizations, may recover, process, or distribute the
7 donations. I further understand that I may, by this document record, limit the use
8 of the bones or tissues, including skin, that are donated or types of organizations that
9 recover, process, or distribute the donation."

10 (b) The document record of gift under par. (a) shall include, following the 2nd
11 sentence required in par. (a), all of the following:

12 1. A line or space for the donor or individual under sub. (3) (a) who may make
13 an anatomical gift to sign or initial to acknowledge that he or she has read the
14 sentences specified in par. (a) or that the sentences have been read aloud to him or
15 her. Except as provided in sub. (3) (c) 2. c., in cases where an anatomical gift is
16 executed by means that do not require the individual making the anatomical gift to
17 sign a record of gift, failure of the donor or individual making the anatomical gift to
18 place his or her initials or signature sign in the line or space is a refusal to make an
19 anatomical gift of bones or tissues.

20 2. A line or space for the donor or individual under sub. (3) (a) making an
21 anatomical gift to sign or initial and specify a limitation, if any, on the use of bones
22 or tissues or on the types of organizations that recover, process, or distribute the
23 donation.

24 (c) If a potential donor or an individual who may make an anatomical gift under
25 sub. (3) or (8) makes an anatomical gift under this subsection, the hospital, organ

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procurement organization, tissue bank, coroner, or medical examiner that provides to the ~~donor or~~ individual a document record of gift under par. (a) shall also provide the ~~donor or~~ individual with the telephone number and address of the agency or organization that recovers the anatomical gift.

(d) The requester under par. (a) shall provide the ~~donor or~~ the individual who may make an anatomical gift under sub. (3) ~~(a), as applicable or (8),~~ with a copy of any document record of gift executed under the requirements of this subsection.

History: 1971 c. 40 s. 93; 1971 c. 213 s. 5; 1977 c. 46, 124; 1979 c. 175 s. 53; 1979 c. 221 s. 2202 (45); 1981 c. 20, 290; 1983 a. 485; 1985 a. 286, 315; 1985 a. 316 s. 14; Stats. 1985 s. 157.06; 1989 a. 105; 1989 a. 298 ss. 3, 10m, 11m; 1991 a. 32; 1995 a. 27 s. 9126 (19); 1997 a. 52, 206, 305; 1999 a. 83; 2001 a. 103; 2005 a. 229, 230.

SECTION 11. 157.06 (9m) of the statutes is renumbered 157.06 (24) and 157.06

(24) (a) and (b), as renumbered, are amended to read:

157.06 (24) (a) A form for removal of organs for use under sub. ~~(4m)~~ (21) (e) 1. and 3.

(b) A form for removal of tissue, other than cardiovascular tissue, for use under sub. ~~(4m)~~ (21) (e) 2. and 3.

Cross Reference: Cross Reference: Cross Reference: See also ch. HFS 137, Wis. adm. code. **Cross Reference:**

History: 1971 c. 40 s. 93; 1971 c. 213 s. 5; 1977 c. 46, 124; 1979 c. 175 s. 53; 1979 c. 221 s. 2202 (45); 1981 c. 20, 290; 1983 a. 485; 1985 a. 286, 315; 1985 a. 316 s. 14; Stats. 1985 s. 157.06; 1989 a. 105; 1989 a. 298 ss. 3, 10m, 11m; 1991 a. 32; 1995 a. 27 s. 9126 (19); 1997 a. 52, 206, 305; 1999 a. 83; 2001 a. 103; 2005 a. 229, 230.

SECTION 12. 157.06 (10m) of the statutes is renumbered 157.06 (33) and

amended to read:

157.06 (25) PENALTY. Whoever fails to comply with the requirement to provide sentences under sub. (3) ~~(e) 2. b. or sub. (6m)~~ (23) (a) may be subject to a forfeiture of not less than \$500 nor more than \$1,000 for each violation.

History: 1971 c. 40 s. 93; 1971 c. 213 s. 5; 1977 c. 46, 124; 1979 c. 175 s. 53; 1979 c. 221 s. 2202 (45); 1981 c. 20, 290; 1983 a. 485; 1985 a. 286, 315; 1985 a. 316 s. 14; Stats. 1985 s. 157.06; 1989 a. 105; 1989 a. 298 ss. 3, 10m, 11m; 1991 a. 32; 1995 a. 27 s. 9126 (19); 1997 a. 52, 206, 305; 1999 a. 83; 2001 a. 103; 2005 a. 229, 230.

SECTION 13. 157.06 (11m) of the statutes is renumbered 157.06 (26) and

amended to read:

157.06 (26) EFFECT OF PRIOR DOCUMENT OF GIFT. Notwithstanding the requirements of this section, a document of gift that was made under the

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1 requirements of s. 157.06, 1987 stats., or s. 157.06, 2005 stats., is deemed to comply
2 with the requirements of this section.

History: 1971 c. 40 s. 93; 1971 c. 213 s. 5; 1977 c. 46, 124; 1979 c. 175 s. 53; 1979 c. 221 s. 2202 (45); 1981 c. 20, 290; 1983 a. 485; 1985 a. 286, 315; 1985 a. 316 s. 14; Stats. 1985 s. 157.06; 1989 a. 105; 1989 a. 298 ss. 3, 10m, 11m; 1991 a. 32; 1995 a. 27 s. 9, 126 (19); 1997 a. 52, 206, 305; 1999 a. 83; 2001 a. 103; 2005 a. 229, 230.

3 **SECTION 14.** 230.35 (2d) (a) 2. of the statutes is amended to read:

4 230.35 (2d) (a) 2. "Human organ" has the meaning given for "vascularized
5 organ" in s. 157.06 (1) (L) means a heart, lung, liver, pancreas, kidney, intestine, or
6 other organ that requires the continuous circulation of blood to remain useful for
7 purposes of transplantation.

History: 1971 c. 91, 125, 183, 211, 226; 1971 c. 270 ss. 70, 71, 83, 104; Stats. 1971 s. 16.30; 1973 c. 51, 243; 1975 c. 28, 39, 41; 1975 c. 147 s. 54; 1975 c. 189, 199, 421, 422; 1977 c. 44; 1977 c. 187 s. 135; 1977 c. 196 ss. 56, 118, 130 (3), (5), (12), 131; 1977 c. 273; 1977 c. 418 ss. 726, 727, 924 (13m); Stats. 1977 s. 230.35; 1979 c. 34, 89; 1979 c. 110 s. 60 (11); 1979 c. 221; 1981 c. 20, 96, 140; 1983 a. 27 s. 2200 (15); 1983 a. 30 ss. 4 to 11, 14; 1983 a. 71, 140; 1983 a. 192 ss. 220, 221, 304; 1985 a. 119; 1987 a. 63, 287, 340, 399, 403; 1989 a. 56 s. 259; 1991 a. 39; 1993 a. 12, 47; 1995 a. 37, 178; 1997 a. 118, 307; 1999 a. 42, 85, 101, 125; 2001 a. 16, 109; 2003 a. 22, 33, 117; 2005 a. 21.

8 **SECTION 15.** 252.15 (2) (a) 1., (am) 1., 2. and (5) (a) 5. of the statutes are
9 amended to read:

10 252.15 (2) (a) 1. Except as provided in subd. 1g., a health care provider who
11 procures, processes, distributes or uses a human body part or human tissue donated
12 as specified under s. 157.06 (6) (a) or (b) that is the subject of an anatomical gift under
13 157.06 shall, without obtaining consent to the testing, test for the presence of HIV,
14 antigen or nonantigenic products of HIV or an antibody to HIV in order to assure
15 medical acceptability of the gift for the purpose intended. The health care provider
16 shall use as a test for the presence of HIV, antigen or nonantigenic products of HIV
17 or an antibody to HIV a test or series of tests that the state epidemiologist finds
18 medically significant and sufficiently reliable to detect the presence of HIV, antigen
19 or nonantigenic products of HIV or an antibody to HIV. If the validated test result
20 of the donor from the test or series of tests performed is positive, the human body part
21 or human tissue donated for use or proposed for donation may not be used.

History: 1985 a. 29, 73, 120; 1987 a. 70 ss. 13 to 27, 36; 1987 a. 403 ss. 136, 256; 1989 a. 200; 1989 a. 201 ss. 11 to 25, 36; 1989 a. 298, 359; 1991 a. 269; 1993 a. 16 s. 2567; 1993 a. 27 ss. 332, 334, 337, 340, 342; Stats. 1993 s. 252.15; 1993 a. 32, 183, 190, 252, 395, 491; 1995 a. 27 ss. 6323, 9116 (5), 9126 (19); 1995 a. 77, 275; 1997 a. 54, 80, 156, 188; 1999 a. 9, 32, 79, 151, 162, 188; 2001 a. 38, 59, 69, 74, 103, 105; 2003 a. 271; 2005 a. 155, 187, 266, 344, 387; s. 13.93 (2) (c).

(am) 1. A health care provider who procures, processes, distributes or uses human sperm ~~donated as specified under s. 157.06 (6) (a) or (b) that is the subject of an anatomical gift under 157.06~~ shall, prior to the distribution or use and with informed consent under the requirements of par. (b), test the proposed donor for the presence of HIV, antigen or nonantigenic products of HIV or an antibody to HIV in order to assure medical acceptability of the gift for the purpose intended. The health care provider shall use as a test for the presence of HIV, antigen or nonantigenic products of HIV or an antibody to HIV a test or series of tests that the state epidemiologist finds medically significant and sufficiently reliable under s. 252.13 (1r) to detect the presence of HIV, antigen or nonantigenic products of HIV or an antibody to HIV. The health care provider shall test the donor initially and, if the initial test result is negative, shall perform a 2nd test on a date that is not less than 180 days from the date of the procurement of the sperm. No person may use the donated sperm until the health care provider has obtained the results of the 2nd test. If any validated test result of the donor for the presence of HIV, antigen or nonantigenic products of HIV or an antibody to HIV is positive, the sperm donated for use may not be used and, if donated, shall be destroyed.

****NOTE: Is it correct that a person may make an anatomical gift of sperm? If so, do we need clarification that donating sperm for in vitro fertilization does not constitute making an anatomical gift under s. 157.06? (Same question for donation of ova.)

If so, isn't sperm covered under s. 252.15 (2) (a) i.?

History: 1985 a. 29, 73, 120; 1987 a. 70 ss. 13 to 27, 36; 1987 a. 403 ss. 136, 256; 1989 a. 200; 1989 a. 201 ss. 11 to 25, 36; 1989 a. 298, 359; 1991 a. 269; 1993 a. 16 s. 2567; 1993 a. 27 ss. 332, 334, 337, 340, 342; Stats. 1993 s. 252.15; 1993 a. 32, 183, 190, 252, 395, 491; 1995 a. 27 ss. 6323, 9116 (5), 9126 (19); 1995 a. 77, 275; 1997 a. 54, 80, 156, 188; 1999 a. 9, 32, 79, 151, 162, 188; 2001 a. 38, 59, 69, 74, 103, 105; 2003 a. 271; 2005 a. 155, 187, 266, 344, 387; s. 13.93 (2) (c).

2. A health care provider who procures, processes, distributes or uses human ova ~~donated as specified under s. 157.06 (6) (a) or (b) that are the subject of an anatomical gift under s. 157.06~~ shall, prior to the distribution or use and with informed consent under the requirements of par. (b), test the proposed donor for the

1 presence of HIV, antigen or nonantigenic products of HIV or an antibody to HIV in
2 order to assure medical acceptability of the gift for the purpose intended.

History: 1985 a. 29, 73, 120; 1987 a. 70 ss. 13 to 27, 36; 1987 a. 403 ss. 136, 256; 1989 a. 200; 1989 a. 201 ss. 11 to 25, 36; 1989 a. 298, 359; 1991 a. 269; 1993 a. 16 s. 2567; 1993 a. 27 ss. 332, 334, 337, 340, 342; Stats. 1993 s. 252.15; 1993 a. 32, 183, 190, 252, 395, 491; 1995 a. 27 ss. 6323, 9116 (5), 9126 (19); 1995 a. 77, 275; 1997 a. 54, 80, 156, 188; 1999 a. 9, 32, 79, 151, 162, 188; 2001 a. 38, 59, 69, 74, 103, 105; 2003 a. 271; 2005 a. 155, 187, 266, 344, 387; s. 13.93 (2) (c).

3 **(5) (a) 5.** To a health care provider who procures, processes, distributes or uses
4 a human body part ~~donated as specified under s. 157.06 (6) (a) or (b)~~ that is the subject
5 of an anatomical gift under s. 157.06, for the purpose of assuring medical
6 acceptability of the gift for the purpose intended. ✓

History: 1985 a. 29, 73, 120; 1987 a. 70 ss. 13 to 27, 36; 1987 a. 403 ss. 136, 256; 1989 a. 200; 1989 a. 201 ss. 11 to 25, 36; 1989 a. 298, 359; 1991 a. 269; 1993 a. 16 s. 2567; 1993 a. 27 ss. 332, 334, 337, 340, 342; Stats. 1993 s. 252.15; 1993 a. 32, 183, 190, 252, 395, 491; 1995 a. 27 ss. 6323, 9116 (5), 9126 (19); 1995 a. 77, 275; 1997 a. 54, 80, 156, 188; 1999 a. 9, 32, 79, 151, 162, 188; 2001 a. 38, 59, 69, 74, 103, 105; 2003 a. 271; 2005 a. 155, 187, 266, 344, 387; s. 13.93 (2) (c).

7 **SECTION 16.** 343.17 (3) (b) of the statutes is amended to read:

8 343.17 (3) (b) The reverse side of the license shall contain an explanation of any
9 restriction codes or endorsement abbreviations used on the front of the license, in
10 sufficient detail to identify the nature of the restrictions or endorsements to a law
11 enforcement officer of this state or another jurisdiction. Except for a commercial
12 driver license, a part of the reverse side of each license shall be printed to serve as
13 a ~~document record~~ record of gift under s. 157.06 (2) (b) ~~and (c)~~ (1) (t) or a ~~document record~~ ✓
14 ~~of refusal to make an anatomical gift~~ under s. 157.06 (2) (i) (1) (u). ✓

History: 1971 c. 140; 1977 c. 29 s. 1654 (7) (a); 1977 c. 124, 272; 1979 c. 89, 306, 355; 1981 c. 20; 1985 a. 316 s. 25; 1989 a. 105, 298; 1991 a. 269; 1993 a. 19; 1995 a. 113; 1997 a. 27; 1999 a. 9, 140; 2003 a. 33; 2005 a. 126.

15 **SECTION 17.** 343.175 (1) of the statutes is amended to read:

16 343.175 (1) DEPARTMENT TO SOLICIT AND RECORD INFORMATION. As part of every
17 application for an original, duplicate, reinstated, reissued or renewal license or
18 endorsement, the department shall inquire whether the applicant desires to be an
19 organ donor. The department shall record the organ donor response in its file of the
20 person. If a procurement organization, as defined in s. 157.06 (1) (p), reasonably ✓
21 identifies a person and requests this information recorded in the person's file, the

the

under this
subsection

1 department shall promptly provide this information to the organ procurement
2 organization.

3 History: 1989 a. 105, 298; 1995 a. 446; 2003 a. 33.

3 **SECTION 18.** 343.175 (1r) of the statutes is amended to read:

4 343.175 (1r) DEPARTMENT TO PROVIDE INFORMATION. In addition to the inquiry
5 under sub. (1), if the applicant is at least ~~18~~ 15 and one-half years of age, the
6 department shall orally state to the applicant that he or she has the opportunity to
7 indicate his or her willingness to be an organ donor. If the applicant indicates that
8 he or she is undecided in response to the inquiry under sub. (1), the department shall
9 provide the applicant with written information that all organ procurement
10 organizations and the department have together developed. If the applicant makes
11 an affirmative response to the inquiry under sub. (1), the department shall request
12 at that time that the applicant write on the license the information that is specified
13 under sub. (2) (ar) and affix a sticker, as described in sub. (3) ~~(a)~~, to the front side of
14 the license document.

15 History: 1989 a. 105, 298; 1995 a. 446; 2003 a. 33.

15 **SECTION 19.** 343.175 (2) (a) of the statutes is amended to read:

16 343.175 (2) (a) Except as provided in par. (ag), a part of the reverse side of each
17 license shall be printed to serve as a document record of gift under s. 157.06 (2) (b)
18 ~~and (c) (1) (t) or a document record of refusal to make an anatomical gift under s.~~
19 157.06 (2) (i) (1) (u).

20 History: 1989 a. 105, 298; 1995 a. 446; 2003 a. 33.

20 **SECTION 20.** 343.175 (2) (ag) of the statutes is amended to read:

21 343.175 (2) (ag) The department shall print a separate document to be issued
22 to all persons issued a commercial driver license and make provisions so that the
23 document may be attached to the reverse side of the license document along one edge.
24 This document shall serve as a document record of gift under s. 157.06 (2) ~~(b) and (c)~~

1 (1) (t) or a document record of refusal to make an anatomical gift under s. 157.06 (2) ✓

2 (i) (1) (u).

3 History: 1989 a. 105, 298; 1995 a. 446; 2003 a. 33. ✓

SECTION 21. 343.50 (3) of the statutes is amended to read:

4 343.50 (3) DESIGN AND CONTENTS OF CARD. The card shall be the same size as
5 an operator's license but shall be of a design which is readily distinguishable from
6 the design of an operator's license and bear upon it the words "IDENTIFICATION
7 CARD ONLY". The information on the card shall be the same as specified under s.
8 343.17 (3). The card may serve as a document record of gift under s. 157.06 (2) (b)
9 and (e) (1) (t) and the holder may affix a sticker thereto as provided in s. 343.175 (3).
10 The card may also serve as a document record of refusal to make an anatomical gift
11 under s. 157.06 (2) (i) (1) (u). The card shall contain the holder's photograph and, if
12 applicable, shall be of the design specified under s. 343.17 (3) (a) 12. ✓

History: 1977 c. 360, 447; 1979 c. 226, 306; 1981 c. 20 s. 1848r; 1985 a. 29, 98; 1987 a. 27, 304; 1989 a. 105, 294, 298; 1991 a. 86, 269; 1995 a. 446; 1997 a. 27, 119, 191; 1999 a. 9, 32, 80, 85, 88, 186; 2001 a. 93; 2003 a. 33; 2005 a. 126.

13 SECTION 22. 343.50 (4m) (a) of the statutes is amended to read:

14 343.50 (4m) (a) As part of every application for an identification card, the
15 department shall inquire whether the applicant desires to be an organ donor. The
16 department shall record the organ donor response in its file of the person. If a
17 procurement organization, as defined in s. 157.06 (1) (p), reasonably identifies a
18 person and requests ^{e the} this information recorded in the person's file, the department
19 shall promptly provide this information to the organ procurement organization. ✓ under this paragraph

History: 1977 c. 360, 447; 1979 c. 226, 306; 1981 c. 20 s. 1848r; 1985 a. 29, 98; 1987 a. 27, 304; 1989 a. 105, 294, 298; 1991 a. 86, 269; 1995 a. 446; 1997 a. 27, 119, 191; 1999 a. 9, 32, 80, 85, 88, 186; 2001 a. 93; 2003 a. 33; 2005 a. 126.

20 SECTION 23. 343.50 (4m) (b) of the statutes is amended to read:

21 343.50 (4m) (b) In addition to the inquiry under par. (a), if the applicant is at
22 least ~~18~~ 15 and one-half years of age, the department shall orally state to the
23 applicant that he or she has the opportunity to indicate his or her willingness to be

1 an organ donor. If the applicant indicates that he or she is undecided in response to
2 the inquiry under par. (a), the department shall provide the applicant with written
3 information that all organ procurement organizations and the department have
4 together developed. If the applicant makes an affirmative response to the inquiry
5 under par. (a), the department shall request at that time that the applicant write on
6 the identification card the information that is required to make an anatomical gift
7 under s. 157.06 ~~(2) (b) and (c)~~ (4) and affix a sticker thereto as provided in s. 343.175 ✓
8 (3).

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History: 1977 c. 360, 447; 1979 c. 226, 306; 1981 c. 20 s. 1848r; 1985 a. 29, 98; 1987 a. 27, 304; 1989 a. 105, 294, 298; 1991 a. 86, 269; 1995 a. 446; 1997 a. 27, 119, 191;
1999 a. 9, 32, 80, 85, 88, 186; 2001 a. 93; 2003 a. 33; 2005 a. 126.

9 **SECTION 24. Initial applicability.**

10 (1) This act first applies to any of the following on that occur on the effective
11 date of this subsection:

12 (a) A request^e that another make an anatomical gift.

13 (b) The making, amendment, or revocation of an anatomical gift.

14 (c) The refusal to make an anatomical gift.

15 (d) The distribution of a body or part that is the subject of an anatomical gift.

16 (e) The issuance of a driver's license or identification card^d.

17 (END)